IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

WRIT PETITION NO. 6155 OF 2005.

Hemraj Kothari & anr. ..Petitioners
vs.
Imran s/o Mohamad Iqbal Solanki. ..Respondent.

WITH

WRIT PETITION NO. 6198 OF 2005.

Mrs.Sayar Hemraj Kothari ..Petitioners
vs.
Imran s/o Mohamad Iqbal Solanki. ..Respondent.

WITH

WRIT PETITION NO. 6201 of 2005.

Hemraj Kothari ..Petitioner
vs.
Imran s/o Mohamad Iqbal Solanki. ..Respondent.

Shri V.R. Tripathi for the petitioner.

Shri Hiralal Thakkar with N.M. Gunjal for the respondent.

(in all matters).

CORAM : V.C.DAGA, J.

DATED : 30.11.2005.

P.C. :

. Heard learned Counsel for the petitioners in all matters.

2. It is not in dispute that on more than 4 occasions time to file written statement was granted viz., on 17.5.2004, 11.3.2004, 7.4.2004 and 7.5.2004.

3. As per Order 8 Rule 1 of the Civil Procedure Code, outer limit for the Court for allowing defendant to file written statement is 90 days from the date of service of summons. In spite of grant of more than 90 days time, no written statement was filed. Even after expiry of 90 days time was available to file written statement. No cogent reasons are to be found for not filing written statement even within extended time. The lapse, negligence and casual approach on the part of the petitioner is writ large.

4. In view of the various judgments of the Apex Court referred to in the case of Shaikh Salim Haji Abdul Khayumsab vs. Mr.Kumar & ors. in Appeal (civil) No. 6907 of 2005 with Civil Appeal No. 6918 of 2005, dated 18.11.2005, only in exceptional circumstances the Court can permit filing of written statement beyond 90 days. No such exceptional circumstance has been brought on record. If the impugned order is set aside and defendant is allowed to file written statement in this case, the very purpose of amendment to O.8 R.1 of the C.P.C. would be defeated. In my view, the trial Court was perfectly justified in refusing to permit the defendant to file written statement on record. No case is made out to interfere with the impugned order passed by the Court below.

. All the three petitions are accordingly dismissed in limine with no order as to costs.